

ASSEMBLY BILL

No. 201

Introduced by Assembly Member Samuelian

January 28, 2003

An act to amend Section 12070 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 201, as introduced, Samuelian. Firearms.

Existing law provides that, subject to exceptions, no person may sell, lease, or transfer a firearm without a license, as specified.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12070 of the Penal Code is amended to
2 read:

3 12070. (a) No person shall sell, lease, or transfer firearms
4 unless he or she has been issued a license pursuant to Section
5 12071. ~~Any~~ Every person violating this section is guilty of a
6 misdemeanor.

7 (b) Subdivision (a) does not include any of the following:

8 (1) The sale, lease, or transfer of any firearm by a person acting
9 pursuant to operation of law, a court order, or pursuant to the
10 Enforcement of Judgments Law (Title 9 (commencing with
11 Section 680.010) of Part 2 of the Code of Civil Procedure), or by

1 a person who liquidates a personal firearm collection to satisfy a
2 court judgment.

3 (2) A person acting pursuant to subdivision (e) of Section
4 186.22a or subdivision (c) of Section 12028.

5 (3) The sale, lease, or transfer of a firearm by a person who
6 obtains title to the firearm by intestate succession or by bequest or
7 as a surviving spouse pursuant to Chapter 1 (commencing with
8 Section 13500) of Part 2 of Division 8 of the Probate Code,
9 provided the person disposes of the firearm within 60 days of
10 receipt of the firearm.

11 (4) The infrequent sale, lease, or transfer of firearms.

12 (5) The sale, lease, or transfer of used firearms other than
13 pistols, revolvers, or other firearms capable of being concealed
14 upon the person, at gun shows or events, as specified in
15 subparagraph (B) of paragraph (1) of subdivision (b) of Section
16 12071, by a person other than a licensee or dealer, provided the
17 person has a valid federal firearms license and a current certificate
18 of eligibility issued by the Department of Justice, as specified in
19 Section 12071, and provided all the sales, leases, or transfers fully
20 comply with subdivision (d) of Section 12072. However, the
21 person shall not engage in the sale, lease, or transfer of used
22 firearms other than pistols, revolvers, or other firearms capable of
23 being concealed upon the person at more than 12 gun shows or
24 events in any calendar year and shall not sell, lease, or transfer
25 more than 15 used firearms other than pistols, revolvers, or other
26 firearms capable of being concealed upon the person at any single
27 gun show or event. In no event shall the person sell more than 75
28 used firearms other than pistols, revolvers, or other firearms
29 capable of being concealed upon the person in any calendar year.

30 A person described in this paragraph shall be known as a “Gun
31 Show Trader.”

32 The Department of Justice shall adopt regulations to administer
33 this program and shall recover the full costs of administration from
34 fees assessed applicants.

35 As used in this paragraph, the term “used firearm” means a
36 firearm that has been sold previously at retail and is more than
37 three years old.

38 (6) The activities of a law enforcement agency pursuant to
39 Section 12084.

1 (7) Deliveries, sales, or transfers of firearms between or to
2 importers and manufacturers of firearms licensed to engage in
3 business pursuant to Chapter 44 (commencing with Section 921)
4 of Title 18 of the United States Code and the regulations issued
5 pursuant thereto.

6 (8) The sale, delivery, or transfer of firearms by manufacturers
7 or importers licensed pursuant to Chapter 44 (commencing with
8 Section 921) of Title 18 of the United States Code and the
9 regulations issued pursuant thereto to dealers or wholesalers.

10 (9) Deliveries and transfers of firearms made pursuant to
11 Section 12028, 12028.5, or 12030.

12 (10) The loan of a firearm for the purposes of shooting at
13 targets, if the loan occurs on the premises of a target facility which
14 holds a business or regulatory license or on the premises of any
15 club or organization organized for the purposes of practicing
16 shooting at targets upon established ranges, whether public or
17 private, if the firearm is at all times kept within the premises of the
18 target range or on the premises of the club or organization.

19 (11) Sales, deliveries, or transfers of firearms by
20 manufacturers, importers, or wholesalers licensed pursuant to
21 Chapter 44 (commencing with Section 921) of Title 18 of the
22 United States Code and the regulations issued pursuant thereto to
23 persons who reside outside this state who are licensed pursuant to
24 Chapter 44 (commencing with Section 921) of Title 18 of the
25 United States Code and the regulations issued pursuant thereto, if
26 the sale, delivery, or transfer is in accordance with Chapter 44
27 (commencing with Section 921) of Title 18 of the United States
28 Code and the regulations issued pursuant thereto.

29 (12) Sales, deliveries, or transfers of firearms by persons who
30 reside outside this state and are licensed outside this state pursuant
31 to Chapter 44 (commencing with Section 921) of Title 18 of the
32 United States Code and the regulations issued pursuant thereto to
33 wholesalers, manufacturers, or importers, if the sale, delivery, or
34 transfer is in accordance with Chapter 44 (commencing with
35 Section 921) of Title 18 of the United States Code and the
36 regulations issued pursuant thereto.

37 (13) Sales, deliveries, or transfers of firearms by wholesalers
38 to dealers.

39 (14) Sales, deliveries, or transfers of firearms by persons who
40 reside outside this state to persons licensed pursuant to Section

1 12071, if the sale, delivery, or transfer is in accordance with
2 Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code, and the regulations issued pursuant thereto.

4 (15) Sales, deliveries, or transfers of firearms by persons who
5 reside outside this state and are licensed pursuant to Chapter 44
6 (commencing with Section 921) of Title 18 of the United States
7 Code and the regulations issued pursuant thereto to dealers, if the
8 sale, delivery, or transfer is in accordance with Chapter 44
9 (commencing with Section 921) of Title 18 of the United States
10 Code and the regulations issued pursuant thereto.

11 (16) The delivery, sale, or transfer of an unloaded firearm by
12 one wholesaler to another wholesaler if that firearm is intended as
13 merchandise in the receiving wholesaler's business.

14 (17) The loan of an unloaded firearm or the loan of a firearm
15 loaded with blank cartridges for use solely as a prop for a motion
16 picture, television, or video production or entertainment or
17 theatrical event.

18 (18) The delivery of an unloaded firearm that is a curio or relic,
19 as defined in Section 178.11 of Title 27 of the Code of Federal
20 Regulations, by a person licensed as a collector pursuant to
21 Chapter 44 (commencing with Section 921) of Title 18 of the
22 United States Code and the regulations issued pursuant thereto
23 with a current certificate of eligibility issued pursuant to Section
24 12071 to a dealer.

25 (c) (1) As used in this section, "infrequent" means:

26 (A) For pistols, revolvers, and other firearms capable of being
27 concealed upon the person, less than six transactions per calendar
28 year. For this purpose, "transaction" means a single sale, lease, or
29 transfer of any number of pistols, revolvers, or other firearms
30 capable of being concealed upon the person.

31 (B) For firearms other than pistols, revolvers, or other firearms
32 capable of being concealed upon the person, occasional and
33 without regularity.

34 (2) As used in this section, "operation of law" includes, but is
35 not limited to, any of the following:

36 (A) The executor or administrator of an estate, if the estate
37 includes firearms.

38 (B) A secured creditor or an agent or employee thereof when
39 the firearms are possessed as collateral for, or as a result of, a
40 default under a security agreement under the Commercial Code.



1 (C) A levying officer, as defined in Section 481.140, 511.060,
2 or 680.260 of the Code of Civil Procedure.

3 (D) A receiver performing his or her functions as a receiver, if
4 the receivership estate includes firearms.

5 (E) A trustee in bankruptcy performing his or her duties, if the
6 bankruptcy estate includes firearms.

7 (F) An assignee for the benefit of creditors performing his or
8 her functions as an assignee, if the assignment includes firearms.

9 (G) A transmutation of property between spouses pursuant to
10 Section 850 of the Family Code.

11 (H) Firearms received by the family of a police officer or
12 deputy sheriff from a local agency pursuant to Section 50081 of the
13 Government Code.

14 (I) The transfer of a firearm by a law enforcement agency to the
15 person who found the firearm where the delivery is to the person
16 as the finder of the firearm pursuant to Article 1 (commencing with
17 Section 2080) of Chapter 4 of Division 3 of the Civil Code.

